

Sec. 1.800. BOARD OF ADJUSTMENT.**Sec. 1.801. Powers of the Board of Adjustment.**

The Board of Adjustment shall hear all applications for variances from the provisions of this ordinance. The Board shall determine when exceptional or extraordinary conditions exist that will cause an unnecessary hardship not created by the applicant or property owner. The Board shall also hear appeals from the Zoning Administrator's interpretation of the zoning ordinance or other decisions.

(Ord. No. 2830, § 1, 10-17-95; Ord. No. 3314, § 1, 4-18-00; Ord. No. 3457, § 1(Exh. 1), 6-18-02)

Sec. 1.802. Organization.

There is hereby created a "Board of Adjustment".

A. The Board shall consist of seven (7) members who shall be appointed by the City Council. The length of and other conditions of appointment are set forth in Section 2-241 of the Scottsdale Revised Code. The members of the Board of Adjustment shall serve without compensation.

B. The Board of Adjustment may adopt rules and by-laws as it deems necessary for matters relative to its work and administrative duties.

(Ord. No. 2830, § 1, 10-17-95)

Charter references: Boards, commissions, etc., art. 5, § 1 et seq.

Sec. 1.803. Hearing and notice of Board of Adjustment meetings.

Upon receipt in proper form of an application, the Board of Adjustment shall proceed to hold a public hearing upon said application not more than sixty-five (65) days, nor less than fifteen (15) days after such filing, at which time all persons shall be given an opportunity to be heard. The date, time and place of the Board of Adjustment meeting shall be published in a newspaper of general circulation in the City of Scottsdale and shall be posted on the property which is the subject of the application included in the request. Both such publication and posting shall not be less than fifteen (15) days before the hearing. The notices shall describe the nature of the requested variance, or requested appeal of the Zoning Administrator's interpretation or decision.

(Ord. No. 2332, 2-5-91; Ord. No. 2830, § 1, 10-17-95; Ord. No. 3314, § 1, 4-18-00; Ord. No. 3457, § 1(Exh. 1), 6-18-02)

Sec. 1.804. Variances.

A. A variance from the provisions of this ordinance shall not be authorized unless the Board shall find upon sufficient evidence:

(1) That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and

(2) That the authorization of the variance is necessary for the preservation of privileges

and rights enjoyed by other property of the same classification in the same zoning district, and does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

(3) That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant; and

(4) That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

B. The Board of Adjustment may not make any changes in the uses permitted in any zoning classification.

C. The Board may prescribe in connection with any variance such conditions as the Board may deem necessary in order to fully carry out the provisions and intent of this ordinance. Violation of any such condition shall be a violation of this ordinance and such violation shall render the variance null and void.

D. The concurring vote of a majority of all the members of the Board shall be necessary to authorize any variance from the terms and conditions of this ordinance.

E. A variance shall be considered void if the use has not commenced or a building permit has not been issued within one (1) year from the date of the Board of Adjustment's decision, or within any other time frame stipulated by the Board of Adjustment. Extensions of approval may be granted by the Board. Such requests for extension shall be processed as a variance request.

(Ord. No. 2830, § 1, 10-17-95; Ord. No. 3314, § 1, 4-18-00)

Sec. 1.805. Appeals from Zoning Administrator's interpretations of the zoning ordinance and decisions.

A. The Board shall hear appeals of interpretations of the zoning ordinance text or other decisions made by the Zoning Administrator. The Board of Adjustment shall determine those matters over which it has jurisdiction.

B. An appeal shall stay all proceedings in the matter appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies in writing to the Board the stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board or by a court of record on application and notice to the Zoning Administrator from whom the appeal is taken. The Board shall fix a reasonable time for hearing the appeal and give notice thereof.

C. An appeal hearing pursuant to this subsection shall be conducted by the Board of Adjustment following the notice and hearing procedures of section 1.803, except posting on the subject property is not required when no specific property is at issue.

D. A concurring vote of a majority of all the members of the Board shall be necessary to reverse an interpretation of the zoning ordinance by the Zoning Administrator or a decision of the Zoning Administrator. Unless a majority of the board affirmatively votes to reverse the Zoning Administrator's interpretation or decision, the decision of the Board shall be to uphold the interpretation or decision.

E. The decision of the Board of Adjustment may be appealed as provided in section 1.807 of this ordinance.

(Ord. No. 2830, § 1, 10-17-95; Ord. No. 3225, § 1, 5-4-99; Ord. No. 3314, § 1, 4-18-00)

Sec. 1.806. Appeals of Board of Adjustment decisions.

Any person aggrieved by a decision of the Board of Adjustment, or any taxpayer, city officer or department affected by a decision of the Board, may appeal the Board's decision to the Superior Court at any time within thirty (30) days after the Board has rendered its decision.

(Ord. No. 2332, 2-5-91; Ord. No. 2830, § 1, 10-17-95; Ord. No. 3314, § 1, 4-18-00; Ord. No. 3457, § 1 (Exh. 1), 6-18-02)

Note: Formerly § 1.807.